

REMARKS

Claim 16 has now been cancelled. Claim 17 is pending in the application. Claim 17 has been amended to recite the slow dissolving tablet. Claim 17 has also been amended to more accurately focus on the re-cycling aspect of the claimed technology. Basis is at page 7, lines 14-17 and page 17, line 2, respectively. It is submitted that the amendment is fully supported and entry is requested.

Formal Matters

For the record, there are no objections or rejections under §112 outstanding.

Rejections Under 35 USC 102

The rejection of Claim 16 under §102 is moot, in view of the cancellation of that claim.

Rejections under 35 USC 103

The rejection of Claim 16 under §103 is moot, in view of the cancellation of that claim.

Claim 17 stands rejected over US 6,632,347 in view of US 5,106,465, for reasons of record at pages 5-6 of the Office Action.

Claim 17 also stands rejected under §103 over US 6,306,281 in view of '347 and further in view of '465, for reasons of record at pages 8-9 of the Office Action.

Applicants respectfully traverse all rejections under §103, to the extent they may apply to the Claim 17 as now amended.

When considering the technology defined by Claim 17, the Examiner's attention is directed to the disclosure at page 17, especially lines 11-15 of the specification. There, Applicants disclose the oxidation process, the reversion to the halogen dioxide salt and the return of the depleted effluent with its reverted halogen dioxide salt back to the source of aqueous feed solution. Simply stated, this is not a mere re-circulation of the effluent, followed by its disposal. Rather, it constitutes a re-cycling that helps replenish the halogen dioxide salt for re-use in the system.

The Examiner's attention is also directed to the use of the slow dissolving tablet source of the halogen dioxide salt. Together with the re-cycle step, these two aspects of the claimed technology achieve an optimal balance of halogen dioxide salt usage and performance.

With regard to the §103 rejections, under MPEP 2142 the Examiner bears the burden of factually supporting any *prima facie* conclusion of obviousness. In determining the differences between the cited art and the claims, the question is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. See *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530 (Fed. Cir. 1983). Moreover, the cited references must teach or suggest all the claim limitations. See, for example, *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). If the Examiner does not prove a *prima facie* case of unpatentability, then without more, the Applicant is entitled to the grant of the patent. See *In re Oetiker*, 977 F.2d 1443. Applicants respectfully assert that the Office Action fails to meet all of these criteria, and thus fails to make a *prima facie* case of obviousness under 35 USC §103.

With regard to '347, a "concentrated salt solution" is prepared using "vacuum dried crystalline salt." (column 19, lines 64-66.) There is clearly no suggestion to use a controlled release tablet, per the present invention.

With regard to the passages of '347 cited by the Examiner, attention is drawn to the discussion of element 126 at column 24, lines 4-11. While it is submitted that said discussion is not crystal clear, the patentees do clearly state that, "the output solution is then drained to waste via the valve 76." [column 24, line 11; emphasis supplied.] Accordingly, while '347 may, arguably, involve some re-circulation aspect, it does not contemplate a re-cycle aspect that affords re-use of the reverted halogen dioxide salt in the manner of the present invention.

The '465 patent adds nothing to '347 with regard to either the tablet or the re-cycle. As repeatedly stated, '465 employs an aqueous solution (e.g. column 9, lines 37, 58 and 65; column 10, lines 13, 22, 26, etc.). And, as shown in figure 2, the "aqueous chlorite feed" does not appear to contemplate any re-cycle stream.

Net: The combination of '347/'465 does not teach or suggest all elements of Applicants' claimed invention. Therefore, it is submitted that the rejection of Claim 17 on this combination of documents should be withdrawn.

With regard to the rejection over '281 and '347/'465, the above comments regarding the disclosures of '347, '465 and/or their combination continue to apply. Simply stated, then, it is submitted that the combination of '281/'347/'465 does not support a *prima facie* rejection under §103.

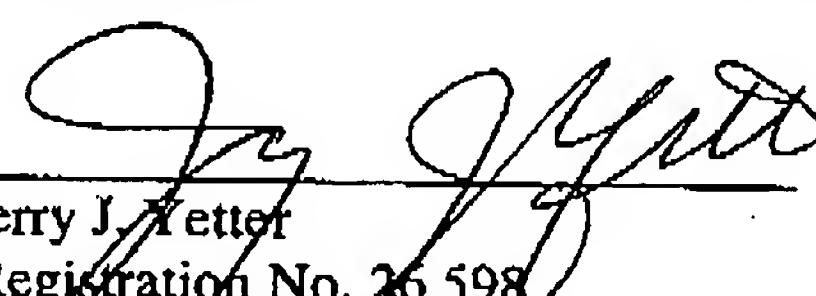
As is clear from the figure and the accompanying disclosure, the cell of '281 is designed for "up-flow." See column 2, line 60. Nothing therein relates to re-cycle nor to the use of a controlled release tablet. Net: The combination of these unique features of the present invention are not taught or even vaguely suggested by the combination of '281/'347/'465. Accordingly, no *prima facie* grounds for this rejection exists and it should be withdrawn.

In light of the foregoing, early and favorable action on Claim 17 is requested.

Respectfully submitted,

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